

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.20720 of 2018

Date of decision: 20.08.2018

Ram Rattan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Hardeep Singh Kasan, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present petition has been filed against the concurrent findings recorded by the authorities below whereby respondent no.4-Jarnail Singh was appointed as Lambardar of village Jurasi Kalan.

Counsel for the petitioner has vehemently argued that the Collector's order dated 31.12.2014 (Annexure P/4) was not sustainable as the petitioner's age was wrongly recorded as 58 years instead of 46 years and the said order has been wrongly upheld by the Commissioner, Ambala Division, Ambala vide order dated 9.9.2016 (Annexure P/5) and further given the stamp of approval by the Financial Commissioner on 9.3.2017 (Annexure P/7).

A perusal of the paper-book would go on to show that the Collector had gone into detail and examined all the plus and minus points of the candidates who had remained in fray for the post of Lambardar. Out of four candidates Mann Singh who had been recommended by the SDO fell out of contention on account of the fact that he was in illegal possession of the Panchayat land. Similarly another candidate namely Baldev Singh was

found to be illiterate and also an eviction petition was pending against him. In such circumstances, only the petitioner and respondent no.4-Jarnail Singh remained in fray.

While comparing the merits as such it has come on record that the petitioner was not having any cultivating land in his name whereas respondent no.4 has 46 Kanals 16 Marlas of land. It has been noticed that the petitioner is 10th pass and 58 years of age though the contention is that the petitioner is 46 years of age and reliance is accordingly placed upon matriculation certificate (Annexure P/3). On the other hand, respondent no.4 was stated to be owner of a large chunk of land and he participated in the cleanliness movement and is a member of Gau-Shala Mandal. It is on this basis the Collector found the respondent no.4 more suitable than the petitioner while appointing the said respondent as Lambardar vide order dated 31.12.2014 (Annexure P/4).

The said order had been challenged by Mann Singh, the present petitioner Ram Rattan and Baldev Singh by filing appeals before the Commissioner, Ambala Division, Ambala which were disposed of by a common order dated 9.9.2016 (Annexure P/5) by holding that the Collector's order was good and proper and no fault and omission was shown.

From perusal of the above facts, it would be apparent that one of the main consideration which has prevailed with the Collector was substantial holding of the revenue estate by respondent no.4. Merely because the age as such of the petitioner was noticed as 58 years instead of 46 which in comparison to respondent no.4 is 51 years of age and only a difference of 5 years would be there between two candidates and it would

not be as such a ground to come to the conclusion that findings as such are perverse.

It is settled principle that the Collector's choice for making appointment to such post should not be interfered with. It is only in case of perversity that the order is liable to be interfered with. Reliance can be placed upon the judgment of the Apex Court in **Mahavir Singh Vs. Khiali Ram and others 2009(3) SCC 439**. The relevant paras read as under:-

“16. The High Court while exercising its jurisdiction under [Article 226](#) of the Constitution of India is basically concerned with the correctness of the decision making process and not the merit of the decision. It has not been found by the High Court that Collector in expressing his opinion as regards comparative merit of appellant vis-a-vis respondent No. 1 committed an error in his decision making process. The principles of natural justice have been complied with. Procedure laid down in the Rules had also been complied with. It is also not correct to say, as has been contended by Mr. Mahajan that the Collector had not taken into consideration the services rendered by the respondent No. 1 to the State. He did acknowledge that the respondent No. 1 had rendered the services to the State as a member of the Armed Forces. The Collector also took into consideration that the views of the respectables of the village were in favour of appellant as also the fact that he had participated in the collection work of the village and helped the government officials at the time of their visit. He furthermore took into consideration the fact that the Naib Tehsildar, Hansi had also recommended his name. Even the Circle Revenue Officer had recommended therefor.

17. It is, therefore, not a case where the finding of the Collector can be said to be perverse. It has also not been established that the said statutory authority while taking a decision failed to take into consideration the relevant factors or based its decision on extraneous considerations or on

irrelevant factors not germane therefor.”

Once the Collector after due consideration of merits came to the conclusion that private respondent was more suitable candidate than the petitioner, there is no ground to interfere with the impugned order in the absence of any perversity.

Accordingly, the present writ petition is dismissed in limine.

August 20, 2018
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No